

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☒ SUPERSEDING
OFFENSE CHARGED
 18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography;
 18 U.S.C. § 401(3) – Criminal Contempt

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: SEE ATTACHMENT.

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

FILED**DEFENDANT - U.S.**

KENNETH BRESLIN

JAN 18 2018

DISTRICT COURT NUMBER

CR 16-00515 YGR

 SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Department of Homeland Security

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form ALEX G. TSE

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) CHRISTINA McCALL

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior
 summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☒ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

PENALTY SHEET ATTACHMENT FOR KENNETH BRESLIN

COUNTS ONE AND TWO: 18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography:

Visual Depictions Involving a Pre-Pubescent Minor:

Maximum Imprisonment:	20 years
Maximum Fine:	\$250,000
Maximum Supervise Release:	Life
Minimum Supervised Release:	5 years
Special Assessment:	\$5,000 (18 U.S.C. § 3014)

COUNT THREE: 18 U.S.C. § 401(3) – Criminal Contempt:

Penalties: Determined by the Court. “A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority . . . as [d]isobedience or resistance to its lawful writ, process, order, rule, decree, or command.” 18 U.S.C. § 401(3).

** Note that the Indictment contains a sentencing enhancement allegation under 18 U.S.C. § 3147. Section 3147 provides for a mandatory consecutive sentence (with a 10 year statutory maximum prison sentence) for a crime committed while on release.

United States District Court

FILED

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: Oakland

JAN 18 2018
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES OF AMERICA,

CR 16-00515 YGR

v.

KENNETH BRESLIN,

DEFENDANT.

SUPERSEDING INDICTMENT

18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography; 18
U.S.C. § 401(3) – Criminal Contempt; 18 U.S.C. § 3147 – Offense
Committed While on Release; 18 U.S.C. §§ 2253(a) – Criminal
Forfeiture

A true bill.

M. T. Whorush
Foreman

Filed in open court this 18th day of

January, 2018
Joy L. Garcia
Clerk
1/18/18

Bail, \$

no money

FILED

JAN 18 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ALEX G. TSE (CABN 152348)
Acting United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR 16-00515 YGR
Plaintiff,)	
v.)	<u>VIOLATIONS:</u> 18 U.S.C. § 2252(a)(4)(B) –
)	Possession of Child Pornography; 18 U.S.C. § 401(3)
)	– Criminal Contempt; 18 U.S.C. § 3147 – Offense
KENNETH BRESLIN,)	Committed While on Release; 18 U.S.C. §§ 2253(a) –
Defendant.)	Criminal Forfeiture
)	OAKLAND VENUE

SUPERSEDING INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography)

From a date unknown to on or about October 5, 2016, in the Northern District of California, the defendant,

KENNETH BRESLIN,

did knowingly possess and knowingly access with the intent to view at least one matter which contained a visual depiction that had been shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, and which was produced using materials that had been mailed, shipped and transported in interstate commerce, by any means including by computer, the production of which involved the use of a minor engaging in sexually explicit conduct, and which depiction was of such conduct, in violation of Title 18, United States Code, Section

1 2252(a)(4)(B).

2
3 COUNT TWO: (18 U.S.C. § 2252(a)(4)(B) – Possession of Child Pornography)

4 From on or about October 17, 2016, to on or about September 2, 2017, in the Northern District of
5 California, the defendant,

6 KENNETH BRESLIN,

7 did knowingly possess and knowingly access with the intent to view at least one matter which contained
8 a visual depiction that had been shipped and transported using a means and facility of interstate and
9 foreign commerce and in and affecting interstate and foreign commerce, and which was produced using
10 materials that had been mailed, shipped and transported in interstate commerce, by any means including
11 by computer, the production of which involved the use of a minor engaging in sexually explicit conduct,
12 and which depiction was of such conduct, in violation of Title 18, United States Code, Section
13 2252(a)(4)(B).

14
15 COUNT THREE: (18 U.S.C. § 401(3) – Criminal Contempt)

16 Beginning on or about December 21, 2016, and continuing to September 2, 2017, in the Northern
17 District of California, the defendant,

18 KENNETH BRESLIN,

19 did willfully and knowingly disobey and resist a lawful order of a Court of the United States, that is, the
20 order issued by the Honorable Jacqueline Scott Corley, United States Magistrate Judge, on December
21 21, 2016, in the Northern District of California, in the case of *United States v. Kenneth Breslin*, CR 16-
22 00515 YGR, that defendant (1) shall not commit any federal, state, or local crime; and (2) shall not
23 access the internet and shall not use or possess any computer, in that defendant:

24 1. Committed a new federal crime, namely, possession of child pornography as alleged in
25 Count Two of this Superseding Indictment;

26 2. Used a Hewlett Packard laptop computer, serial number CND6354J2T, between
27 December 21, 2016 and September 2, 2017; and

28 3. Used the Hewlett Packard laptop computer to access the internet;

1 all in violation of the Court's order, and all in violation of Title 18, United States Code, Section 401(3).

2
3 SENTENCING ENHANCEMENT: (18 U.S.C. § 3147 – Offense Committed While on Release)

4 At the time of the offenses charged in Counts Two and Three of this Superseding Indictment, the
5 defendant,

6 KENNETH BRESLIN,

7 was on pretrial release under Title 18, United States Code, Chapter 207, in the case of *United States v.*
8 *Kenneth Breslin*, Case No. CR 16-00515 YGR.

9
10 FORFEITURE ALLEGATION: (18 U.S.C. § 2253(a) – Criminal Forfeiture)

11 1. Upon conviction of the offense alleged in Counts One and Two, the defendant,

12 KENNETH BRESLIN,

13 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 2253(a), (1) any
14 visual depiction described in Title 18, United States Code, Sections 2251, 2251A, 2252, 2252A, 2252B,
15 or 2260, or any book, magazine, periodical, film, videotape, or other matter which contains any such
16 visual depiction, which was produced, transported, mailed, shipped or received in violation of thereof;
17 (2) any property, real or personal, that was used or intended to be used to commit or to facilitate the
18 commission of such violation; and (3) any property, real or personal, constituting or derived from any
19 proceeds that such person obtained, directly or indirectly, as a result of such violation, including but not
20 limited to the following items:

- 21 a. Toshiba Laptop, Model C55T, serial number 9F257028C, black with silver
22 lettering;
- 23 b. Toshiba hard Disk Drive ("HDD"), 1Tb, Model MQ01ABD100, serial number
24 957MW4YST;
- 25 c. Toshiba Laptop, model # L25-S1216, serial number Z5118470W;
- 26 d. Toshiba HDD, Model # MK5065GSXN, serial number 816UT1QET, 8gb;
- 27 e. Memorex Traveldrive USB 2.0 thumb drive, 512mb, gray in color;
- 28 f. Sandisk thumb drive, 16gb, model SDCZ30;

g. One Hewlett Packard laptop computer, MODEL 15-ay14dx, serial number CND6354J2T; and

h. One black San Disk Ultra USB 3 128GB Thumb Drive, serial number 4C530001230919119322.

2. If any of the property described above, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

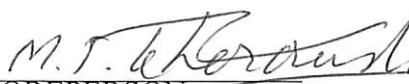
e. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 2253(b) and by Title 28, United States Code, Section 2461(c).

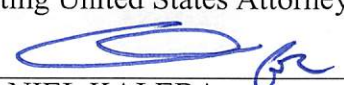
All pursuant to Title 18, United States Code, Section 2253(a); Title 21, United States Code, Section 853; and the procedures set forth in Federal Rule of Criminal Procedure 32.2.

DATED: 1/18/2018

A TRUE BILL.


FOREPERSON

ALEX G. TSE
Acting United States Attorney


DANIEL KALEBA
Deputy Chief, Criminal Division

(Approved as to form: )
AUSA CHRISTINA McCALL